



# PUBLIC NOTICE

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## RECLASSIFICATION OF FM FACILITIES PURSUANT TO BC DOCKET 80-90

In the Report and Order in BC Docket 80-90, 94 FCC 2d 152 (1983), the Commission specified a minimum transmitting antenna height above average terrain (HAAT) of 300 meters and a minimum effective radiated power (ERP) of 100 kW for class 'C' facilities. The Report and Order also specified that class 'B' facilities have an ERP which exceeds 25 kW. In order to provide existing stations an opportunity to meet these minimums, the Commission indicated that existing stations would have three years from the effective date of the Report and Order (i.e. March 1, 1984) to submit an application for appropriate minimum facilities or be reclassified. Thus, to avoid reclassification, an application proposing minimum class 'B' or 'C' facilities must have been received by March 1, 1987. Since, however, March 1, 1987, fell on a Sunday, the Commission has accepted applications to meet the class 'B' and 'C' minimums filed by the close of business on March 2, 1987, pursuant to 47 C.F.R. § 1.4(i).

This Public Notice explains how various aspects of the reclassification are being administered. The following example covers most situations which arose during the reclassification process.

Consider the case of a class 'C' channel currently allotted to a city. The city and channel are listed in the Table of Allotments. A licensed station operates on this channel with facilities of 20 kilowatts and 100 meters. This station also has a construction permit to modify its facilities to increase power to 100 kilowatts but remain at 100 meters. An application was filed, by the close of business on March 2, 1987, to modify the construction permit to operate with facilities of 100 kilowatts and 400 meters.

The reclassification procedure affects this station and allotment in the following way.

- (1) The license is reclassified to 'C2'.
- (2) The construction permit is reclassified to 'C1'.
- (3) The application remains classified as 'C'.
- (4) The class of this channel in the Table of Allotments is not reclassified because the application requesting full class 'C' facilities was on file by the close of business on March 2, 1987.

Any other applicant will have to protect this station's licensed site as a 'C2', the site of its construction permit as a 'C1', and the proposed site in its application as a 'C'. The eventual grant of a license

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to this station for the facilities proposed in the application will retain the class 'C' channel in the Table of Allotments and the station will continue to operate as a full class 'C' facility. However, if the application is later returned or dismissed, the class of this channel in the Table of Allotments will be reclassified to 'C1' to reflect the class of the construction permit. Other applicants will then only have to protect this station's licensed site as a 'C2' and the site of its construction permit as a 'C1'. Subsequently, if the construction permit expires, the class of the channel in the Table of Allotments will be reclassified to 'C2' to reflect the class of the existing license. Other applicants will then only have to protect this station's licensed site as a 'C2'.

#### Special Cases

Applicants who applied before March 1, 1984, and were in hearing as of the close of business on March 2, 1987, and who were prevented from amending their applications to upgrade their facilities because of their status in hearing, will have 90 days after the decision in that proceeding becomes final to amend or be reclassified.

A class 'C1' station can have maximum facilities of 100 kilowatts (ERP) and 299 meters (HAAT). This ERP-HAAT combination produces a 1 mV/m contour at a distance of 72 kilometers. There are many existing class 'C' stations that operate with an ERP less than 100 kilowatts and a HAAT greater than 300 meters and whose 1 mV/m contour is at a distance greater than 72 kilometers. These stations exceed the equivalent class 'C1' maximum but they do not meet the Docket 80-90 requirement of 100 kilowatts ERP for class 'C'. These stations will remain classified as 'C' pending further rulemaking in MM Docket 86-144, which proposes an index method of classification.

Class 'B' stations with their transmitters located in Zone 2 are reclassified to 'C', 'C1', or 'C2', as appropriate. Similarly, Class 'C' stations with their transmitters located in Zone 1 or 1A are reclassified to 'B' or 'B1', as appropriate. The allotment will carry the classification of the station's license regardless of the zoning of the city of license.

We recognize that many applications filed by existing stations before the March 2, 1987 deadline to specify minimum class B or C facilities were not reached for processing by the March 2, 1987 filing deadline. Should such applications be found deficient after this deadline, we believe the public interest is best served by providing these licensees one opportunity to correct all deficiencies in their applications before the application is returned. Accordingly, upon finding a defect in a timely filed application seeking to meet the Class B or C minimums, the staff on its own motion may waive the "hard-look" FM processing rules established

pursuant to the Report and Order in Docket 84-750, 50 Fed. Reg. 19936 (1985), and notify the applicant of the defect. The applicant will then be provided 30 days to correct the noted deficiency and any other deficiencies which may exist in the application. If after this 30 day period the application still contains deficiencies, the application will be returned and the allotment reclassified. Thereafter, it will be necessary to submit a Petition for Rulemaking in order to return the channel to its prior classification.

#### Other Matters

Reclassified facilities will not be issued a new authorization solely because of reclassification. The Commission will issue a Public Notice as soon as possible after March 2, 1987, listing those facilities reclassified. When a new authorization is issued for any reason the new class will appear.

The reclassification of the FM Tables of Allotments (Sections 73.202 and 73.504) was effective as of the close of business on March 2, 1987. The Tables are presently being modified as necessary to indicate the highest class of the authorized or proposed facilities for a station as of the close of business March 2, 1987 and shall be published as soon as possible. Subsequent deletion or dismissal of these authorized or proposed facilities will also be reflected by modifications of the Tables.

The FM Table of Allotments will also be amended to reflect the use of channels by those stations licensed to a community within 15 miles of the allotment (for class B/C) or 10 miles of the allotment (for class A) under the repealed portion of Section 73.203 of the Rules. The allotment will therefore coincide with the city of license. In addition, all channels will henceforth contain a class of channel next to the numerical designation.

The reclassified allotments and assignments in the Canadian border area will be notified to Canada as soon as possible after March 2, 1987, with class 'C2' stations considered as class 'B' stations under the U.S.-Canada FM Agreement. Since the U.S.-Mexico FM Agreement does not recognize classes 'C1', 'C2', and 'B1', no notifications to Mexico of reclassified facilities in the Mexican border area are required.

Class 'C' licensees with a buffer zone are reminded that their additional spacing protection of 16 km expired as of the close of business on March 2, 1987, except for those in hearing as discussed in "Special Cases" above. Also, any pending applications on file as of March 2, 1987, which specify a transmitter site within the 16 km buffer zone will continue to be protected against proposals in rulemaking for changes to the FM Table of Allotments.

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Action by the Commission March 18, 1987. Commissioners Fowler (Chairman), Quello, Dawson, Patrick and Dennis.

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Questions regarding this notice should be directed to Gary Kalagian, (202) 632-2049 or John Boursy, (202) 634-6315.